

**Wednesday, February 6, 2003**

The Board met at its offices at 450 N Street, Sacramento, at 9:30 a.m., with Ms. Migden, Chairwoman, Mr. Parrish, Vice Chairman, Mr. Leonard and Mr. Chiang present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

**ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed at 9:30 a.m. and reconvened immediately in closed session with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

**CLOSED SESSION**

The Board met to discuss settlements (Revenue and Taxation Code sections 7093.5, 30459.1 and 50156.11) and personnel matters (Govt. Code § 11126 (a)).

The Board recessed at 9:40 a.m. and reconvened immediately in open session with Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang present.

**ADMINISTRATIVE SESSION****PROPOSED 2003 BOARD MEETING DATE CHANGES**

Upon motion of Ms. Migden, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Mr. Westly absent, the Board approved the February 3, 2003 Board Meeting Date Changes (Exhibit 2.4).

**ADMINISTRATIVE MATTERS, CONSENT**

Mr. Chiang moved to adopt the Administrative Matters, Consent Agenda. The motion was seconded by Mr. Leonard but was not voted on for lack of a quorum.

**BOARD COMMITTEE REPORTS****Legislative Committee**

Upon motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board approved the Legislative Committee report (Exhibit 2.5).

**Business Taxes Committee**

Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board approved the Business Taxes Committee report (Exhibit 2.6).

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### Customer Services and Administrative Efficiency Committee

Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board approved the Customer Services and Administrative Efficiency Committee report (Exhibit 2.7).

### ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Migden, seconded by Mr. Chiang and unanimously carried Mr. Parrish, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden and Mr. Leonard not participating, the Board made the following orders:

Action: Approve the Board Meeting Minutes of November 12-13, 2002, December 3-5, 2002, December 18-19, 2002 and January 8-9, 2003.

### PUBLIC COMMENT

Al Koch, General Counsel, MBIA MuniServices  
Bob Cendejas, Attorney for the Cities of Fremont, Signal Hill and Long Beach

### CHIEF COUNSEL MATTERS

#### RULEMAKING

#### Request for adoption of revised language to Sales and Use Tax Regulation 1802, Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes

Upon motion of Ms. Mandel, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted the revised language to *Sales and Use Tax Regulation 1802, Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes* with the deletion of the initial comma (Exhibit 2.8).

### SALES AND USE TAX APPEALS HEARINGS

Robert C. Jones, 62359

10-1-96 to 9-30-99, \$18,506.87 Tax, \$1,850.70 Negligence Penalty

For Petitioner: Appearance Waived

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the evidence shows that the shelf test should be adjusted to reflect lower selling prices for 1997 and 1998.

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Whether the evidence shows that an additional allowance for self-consumption is warranted.

Whether the audited understatement of taxable sales resulted from petitioner's negligence.

Action: Upon motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be denied and redetermined as recommended by the Appeals Division.

**FINAL ACTION ON APPEAL HEARD FEBRUARY 5, 2003**

Ms. Migden moved that the claim for refund of *American General Realty Investment, 156726*, be denied. The motion failed for lack of a second.

Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the appeal be submitted for decision, granting the claimant 30 days to submit supporting documents, the Franchise Tax Board 30 days to respond and the Appeals Division 30 days thereafter to review the claimant's supporting documents, the Franchise Tax Board's response and provide its recommendation to the Board at the May 28-29, 2003 Board Meeting

The Board adjourned at 10:05 a.m.

*The foregoing minutes are adopted by the Board on March 26, 2003.*

Note: The following case was removed from the calendar prior to the meeting: *City of Laguna Hills, 203006*

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